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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/578,722	08/28/2006	Milan Pilja	27403U	3401
20529	7590	10/01/2007	EXAMINER	
NATH & ASSOCIATES 112 South West Street Alexandria, VA 22314			ESTREMSKY, GARY WAYNE	
		ART UNIT	PAPER NUMBER	
		3676		
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		10/01/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)
	10/578,722	PILJA, MILAN
	Examiner	Art Unit
	Gary Estremsky	3676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-12 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-12 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>hereby</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

While the preamble defines the invention as "A door catch" and functionally recites the "cabinet door" as part of intended use of the invention, recitation of "wherein the wheel is supported at an outer end of the door" is ambiguous as to whether it further defines intended use of the claimed invention with unclaimed door or positively recites the invention as a specific arrangement of catch and door. Inasmuch as it is not clear whether the door is within scope of the claimed invention, the claims are rejected as not being reasonably clear.

Inasmuch as claims 5 and its dependents further define the door, particular attention should be made to Remarks, and/or amendment.

Additionally, claim 8 recitation of a "projecting from the base" seems to be missing words or has some other grammatical or punctuation error making meaning of the limitation unclear.

Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that it fails to point out what is included or excluded by the claim language. This claim is an omnibus type claim.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 4, 6-8, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 3,129,969 to Kuo.

Kuo '969 teaches Applicant's claim limitations including : a "wheel" – including 42, "radially extending portions" – the illustrated tread. It has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchison*, 69 USPQ 138. the illustrated surface on which 42 is engaged/rolls reads on "side".

As regards claim 4, the tread is disclosed to be "rubber"; which is inherently "deflectable" – *capable to be deflected*.

As regards claims 6-8, assuming the "door" is functionally recited as part of intended use, it is examiner's position that door catch of the prior art is inherently

capable of use in a bi-fold door arrangement and inherently capable of use with bi-fold adjacent a corner opening since it can be positioned as shown.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3, 5, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 3,129,969 to Kuo.

Although Hkuo '969 doesn't clearly show the shape of the tread's projecting portions, the examiner takes Official Notice that tread having planar teeth portions and tread having tapered teeth are well known in the art. Since modification of the prior art catch to include same would not otherwise affect function, it would have been an obvious design choice or engineering expedient for one of ordinary skill in the art to do so in order to modify tread engagement specifics and/or manufacturing cost or aesthetic reasons.

As regards claim 9, although the angle appears to be less than 45 degrees, it would have been an obvious design choice to have it at "approximately 45 degrees" since it would not affect functionality of the prior art catch and would provide flexibility in mounting location.

Allowable Subject Matter

7. Claims 10 and 11 are would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat. No. 1,270,060 to Scharf.

U.S. Pat. No. 3,563,591 to Kuss.

U.S. Pat. No. 5,966,777 to Jantschek.

U.S. Pat. No. 6,574,837 to Jantschek.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Estremsky whose telephone number is 571 272-7055. The examiner can normally be reached on T,W,Th,F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jennifer Gay can be reached on 571 272-7029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Gary Estremsky
Primary Examiner
Art Unit 3676